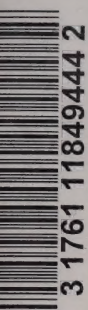


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Discussion Document



Commission on
Systemic Racism
in the Ontario
Criminal Justice
System

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September 1993

Commission on
Systemic Racism
in the Ontario
Criminal Justice
System



180 Dundas St. W., Suite 2004
Toronto On M5G 1Z8



Tel.: (416) 327-6800 Fax: (416) 327-6798
Toll free: 1-800-463-8803

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Commissioners:

Margaret Gittens, Co-Chair

David Cole, Co-Chair

Toni Williams

Sri-Guggan Sri-Skanda-Rajah

Moy Tam

Ed Ratushny

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Introduction

This document reviews some of the major issues and directions currently being considered by the Commission on Systemic Racism in the Ontario Criminal Justice System.

The following pages are intended to provide a framework for public discussion and to stimulate dialogue. We encourage you to give us your views on systemic racism in the Ontario criminal justice system and your recommendations and solutions. Your participation is essential to the development of an equitable justice system for all Ontario residents.

Participants are encouraged to address those issues that are of concern to them.

In the following sections we describe the background, mandate, structure, and activities of the Commission. We then summarize the key issues that have emerged so far in our investigation into systemic racism, and the directions now under consideration.

These issues and new directions are based on extensive research and on consultation with hundreds of people living in Ontario.

Our research initiatives include statistical analysis, Canadian and international literature reviews, policy analysis, the distribution and analysis of surveys and questionnaires, and first hand observation of the province's criminal justice system in action.

We have also talked to youths, parents, members of community groups, police officers, police service board representatives, crown officials, staff of legal aid clinics, duty counsel, members of advocacy groups, prison officials, prisoners, policy makers, parole officers, and Ontario residents concerned with equality and justice.

As the Commission continues to analyze problems and develop solutions, we remain committed to this vital consultation process. **You are an important part of this process.**

Over the next six months, the Commission will draft and publish its findings and recommendations in a final report. To ensure that this report reflects your views, **we need to hear from you as soon as possible.** Based on this Discussion Document, please tell us whether we have identified the key issues and the most effective directions for new solutions. Share your experiences and views with us, tell us which reforms you consider most promising, and suggest ways these reforms can be implemented. If you have alternative solutions to the problems facing Black and other racial minority adults and youth (both male and female) who have come into contact with the criminal justice system, **it is essential that we hear from you.**

You can reach us in several ways:

- Come to one of the 27 Ontario locations where public forums are planned throughout October and November. (Two forums are scheduled each day, the first from 1:30 to 4:30 p.m., the second from 6:00 to 9:00 p.m.) You may ask to make a scheduled oral submission or you can participate in the open forum following scheduled presentations. For more information, contact the Commission at the address and phone number below.
- Send us your views in writing or on audio or video tape.
- Call us at 1-800-463-8803 and leave your comments and suggestions on the message machine. Calls are free from anywhere in Ontario.
- Write or telephone and ask to be added to our mailing list. You will be kept up to date on the Commission's activities and meetings in your area.

**The Commission on Systemic Racism in the
Ontario Criminal Justice System
180 Dundas Street West, Suite 2004
Toronto, Ontario M5G 1Z8
Tel.: (416) 327-6800
Toll-free telephone number: 1-800-463-8803
Fax: (416) 327-6798**

Background

Concerns about Systemic Racism in the Criminal Justice System

Racism is a historical and ongoing reality in Canadian society. It is important to recognize racism for what it is, to understand the experience of those who face it daily, and to work to eliminate it.

Members of Black and other racial minority communities* have repeatedly asserted that both overt and systemic racism in the Ontario criminal justice system are not just perceptions but realities that must be addressed. Concerns about systemic racism have been identified as being of particular importance. *Systemic racism* refers to procedures and practices, some unintentional, that disadvantage and discriminate against racial minorities.

The Marshall Inquiry in Nova Scotia, the Aboriginal Justice Inquiry in Manitoba, the Cawsey Report in Alberta, the Marcellus François Inquest Report in Montreal, and the Linn Reports in Saskatchewan all confirmed the existence of systemic racism in the criminal justice systems in other Canadian jurisdictions.

There has been little comprehensive research into systemic racism in Ontario's criminal justice system or into the impact of this racism on Black and other racial minority communities. Although policing has received some attention, other parts of the criminal justice system such as bail, plea bargaining, jury selection, sentencing, and parole have not been sufficiently studied.

Although the Toronto demonstrations of May 1992 led to the establishment of the Stephen Lewis Inquiry (June 1992), members of Black communities have lobbied for many years for a public inquiry into systemic racism in the Ontario

* The term racial minority appears in the Commission's terms of reference. The Commissioners acknowledge that many people find it inappropriate.

criminal justice system. These efforts and consultations over the summer of 1992 led to the establishment of this Commission.

Mandate of the Commission

The Commission's purpose is to examine the extent of systemic racism in the procedures, practices, policies, and institutional processes that make up the Ontario criminal justice system. The Commission is further mandated to make recommendations with respect to the elimination of systemic racism where identified. The Commission, however, does *not* have the authority to investigate the policies and practices of the federal government, nor does it have the authority to investigate individual allegations of wrong-doing.

The focus of the Commission is on anti-Black racism in urban centres, with special emphasis on women and youth. It is important to note, however, that the Commission recognizes the vulnerability of all racial minority communities.

Aboriginal Concerns

The Commission is not formally researching issues of systemic racism as they affect the Aboriginal communities and the criminal justice system, nor is the Commission formally consulting with Aboriginal Peoples. The Commission was told by the Government of Ontario that the issue of Aboriginal Peoples was being addressed in the statement of political relationship between the Province of Ontario and the First Nation Chiefs of Ontario.

We have since been told by members of Aboriginal communities that we were misled. We now understand that many Aboriginal Peoples do not believe that the Government of Ontario is dealing with their issues. In addition, many off-reserve Aboriginal Peoples do not feel that they are

represented by the First Nation Chiefs of Ontario or by those affiliated with the First Nation Chiefs. We have been told that even if the nation-to-nation relationship between the province and the First Nation Chiefs works effectively, there are substantial numbers of Aboriginal Peoples in Ontario who feel excluded from that relationship.

Members of Aboriginal communities and organizations told the Commission that Aboriginal communities in Ontario do not want or need more studies, inquiries, task forces, or reports that document “the problems.” They say that what is needed is action on the many solutions that have been proposed and endorsed by Aboriginal Peoples over the years. Action on these solutions requires financial and political commitment by the government of this province.

Although the Commission does not believe that issues related to Aboriginal Peoples and the criminal justice system should represent a major part of its work, we have not and will not exclude those Aboriginal individuals who would like to be part of our process.

Commission's Methods and Activities

The initial stage in the Commission's work involved consultation with various stakeholders, visits to institutions, and review of other research. Subsequently, issues were identified and research projects were formulated to address them. These projects are now being conducted by Commission staff, or by consultants. In addition, we have an extensive ongoing public consultation process in which we hope you will participate.

The following range of data collection, methods, and approaches is essential to the Commission's work, its analysis of problems, and its development of solutions:

- public forums and town hall meetings,
- interviews, workshops, and consultations with individuals and stakeholder groups (such as defence counsel, prisoners, correctional officials, and key organizations in racial minority communities),
- focus group discussions with, for example, youth, parents, the police, defence counsel, crown attorneys, prisoners, and advocacy groups,
- oral and written submissions by individuals and group or community representatives,
- forums and conferences (a youth forum, for example, and a two day conference attended by police and community representatives, including members of the National Black Police Association from the United States),
- observation of court proceedings and parole hearings,
- visits to provincial and federal correctional facilities,
- surveys and questionnaires conducted with various stakeholders,
- a comprehensive review of the relevant literature and policy initiatives in other jurisdictions in Canada, the United States, England, and other countries,

- review of judicial, institutional, and agency files,
- statistical analysis of correctional institutions records, and
- thirty projects funded through a community grants program, including outreach projects conducted by youth groups. These projects focused on structured discussions, workshops, town hall meetings, and video productions.

Some Key Issues Being Explored

Schools, Youth, and Police

Each issue addressed by the Commission has a component related to the interaction between the criminal justice system and Black and other racial minority youth. Two areas, however, are of special concern to youth: police involvement in Ontario's schools, and the perception that racial minority youth are over-policed in public spaces.

In some communities the police have become a major presence in the school system in dealing with issues that were traditionally handled by school staff. Increasingly, incidents such as schoolyard fights and scuffles -- which have occurred for years -- are frequently being upgraded to "assaults" with the laying of criminal charges. The creation by some police services of special police units to counter youth crime and school violence, coupled with the introduction of "zero tolerance policies" for disruptive and criminal activities in the schools, mean that police officers have become more and more involved in maintaining order on behalf of school authorities.

Serious concerns have been raised about the implications of these developments for Black and other racial minority students. There is a strong perception that the increased police presence has a negative, disproportionate, and unwarranted impact on racial minority youth. Some initial research suggests that school officials and police officers may target Black and other racial minority youth unfairly. Police and school officials react one way to certain behaviours on the part of white students, and differently when those behaviours are manifested by Black and other racial minority students. The research also suggests that some teachers are more afraid of Black and other racial minority students than of white students.

Similarly, concerns have been raised about police exercise of discretionary powers *outside* the school. It is widely believed that police officers single out and harass Black and other racial minority youth on the street and in public spaces. Again, the response to certain behaviours appears discriminatory and disproportionate. The consequence is an increasing marginalization and criminalization of Black and other racial minority youth.

Questions:

- Should the police presence in schools be reduced or modified? What sort of training can school officials, police officers, students, and parents receive on dealing with (or *preventing*) situations the police are now being asked to resolve?
- How can tensions between police officers and racial minority youth be reduced? How can they be reduced between schools, students, and parents?
- How can school boards identify practices that have an adverse impact on Black and other racial minority youth? What policies could school boards adopt to use police in schools more sensitively?
- What training should police and other security personnel (including those in public housing and public transit) receive on the difference between behaviours that are merely annoying, challenging, or different, and those that may pose a serious problem?

Note: Questions listed in each section are not exhaustive. You may have others that you wish to address.

Community Policing

Community policing involves dialogue and partnership between communities and police regarding policing activities. Community policing is believed by many to represent a better way to ensure crime prevention and fair and responsive law enforcement.

The Commission's mandate is to identify those community policing approaches that will be responsive to the needs of racial minority communities, and to specify how these communities should be involved in developing and implementing community policing in their neighbourhoods. The Commission is particularly interested in the role of police service boards and the degree to which they represent the concerns of racial minority communities. The Commission is also interested in the way police forces interact with other public service agencies that define and respond to social problems.

Questions:

- What community policing strategies are most responsive to the needs of racial minority communities?
- How can communication be improved between the police and racial minority communities?
- How should policing priorities and the community's interests be jointly determined?
- How can police service boards introduce community policing that will better address the concerns of racial minorities?

Court Processes

People arrested must appear in court before a judge or justice of the peace. Some accused choose to plead guilty and are sentenced without going to trial. Those who do not plead guilty can retain a lawyer to defend them in court where they may appear before a judge and jury, or a judge alone. Those who cannot afford to retain a lawyer may have access to criminal legal aid or a court-appointed “duty counsel.”

A major part of the Commission’s mandate involves court processes. Studying these aspect of the criminal justice system helps us assess the extent to which court rules and practices result in discrimination against Black and other racial minority accused. The Commission is examining several key legal processes, including:

- the granting of bail,
- ensuring quality legal representation,
- selecting jury members, and
- sentencing.

The Commission is also examining the attitudes of criminal justice officials and how these attitudes shape their exercise of discretionary powers.

a) Bail

Bail enables individuals accused of a crime to stay out of jail or detention until their trial. Getting bail sometimes depends on agreeing to conditions such as obeying a curfew or not drinking alcohol. Because it can take a long time for a matter to come to trial, even for minor charges, the failure to obtain bail (or restrictive bail conditions) can have a serious impact on an individual’s personal life and employment.

Judges and justices of the peace have legal rules and guidelines for setting bail. However, they have considerable discretion when deciding *who* gets bail and under what conditions.

Our consultation and research show that Black and other racial minority accused may not be granted bail at the same rate as white accused.

Systemic racism may result from setting certain kinds of conditions for bail that result in discrimination against minority accused. “Extra-legal factors” such as class, employment status, and immigration status may have an inappropriate influence on the court’s decision to grant or not grant bail. Because of such socio-economic factors, Black and other minority accused may find it more difficult to provide financial guarantees that are acceptable to courts. Also the court’s standard criteria for assessing stability -- such as ownership of property, the length of time in the community, and a traditional Canadian family structure -- may have an especially adverse effect on minority accused.

Questions:

- What alternative qualifications for bail would reduce systemic discrimination and reflect the needs and different backgrounds of minority accused without undermining legitimate concerns about public security?
- Should bail qualifications be further reduced for individuals accused of committing a non-violent crime?
- Should alternatives to financial security be considered as qualifications for bail?
- Should the requirement to carry one's bail papers at all times ever be a condition of bail?

b) Access to Quality Legal Representation

Once an accused individual enters the court system, he or she needs good legal representation. Ontario's **legal aid** system is supposed to ensure that everyone charged with a serious offence can receive legal representation. To this end, the Government of Ontario funds a legal aid system and pays lawyers to represent people with low incomes. An accused who cannot afford a lawyer can apply to the legal aid system for legal aid coverage. If granted, he or she can then approach and retain a lawyer willing to work at the rates set by the Ontario Legal Aid Plan. However, it may take a considerable time to obtain the necessary legal aid certificate and to retain a willing and suitable lawyer.

Eligibility criteria for legal aid sometimes make it hard for the working poor and people who are not citizens or recognized immigrants to obtain legal aid certificates. Since Black people and other racial minorities are over-represented in these groups, this disproportionately affects them.

Many believe that Black and minority accused receive legal representation inferior to that received by white accused. For example, legal aid lawyers may be too quick to advise a guilty plea when the accused is Black.

Serious concerns have also been expressed about the availability and quality of **linguistic and cultural interpreter services**, and whether Black and other racial minority accused and victims are made aware of these services. Similarly, concerns have been raised about access to interpreters outside formal court processes (at prison disciplinary, parole, or work boards, for example).

Questions:

- In what ways can the system of referral to legal aid be improved? How can the referral of people to lawyers who accept legal aid certificates be streamlined?

- How can eligibility for certificates be changed to better meet the needs of Black and other racial minority accused?
- How can the quality of legal aid representation be monitored and improved?
- If an accused enters a guilty plea, should the judge be required to ask whether it was on the defence lawyer's advice? Should the judge be required to assess whether the accused understands the implications of pleading guilty, and whether the accused has received appropriate and considered advice?
- How can interpreter services be made more available, and how can the system ensure that the accused is made aware of the full range of services?
- How can a high standard of interpreter services be ensured? What mechanisms can be established to guarantee quality service? Should interpreters be given more training in legal and court processes?

c) Juries

For some offences, the accused may choose trial by a jury of his or her peers. Juries are made up of twelve people. To be eligible to serve on a jury you must be a citizen. Jurors receive instructions from the judge about criminal law, listen to the evidence and the arguments of lawyers and witnesses for the crown and the accused, and then decide whether the accused is guilty or innocent.

The names of potential jurors are drawn from municipal voter and property lists. Selected individuals are then interviewed one-by-one by defence and crown attorneys. Either can reject a number of potential jurors without explanation.

In part because many individuals from minority communities are not eligible to vote or do not speak fluent English or French, voters' lists often fail to reflect the racial and cultural composition of society. Similarly, the use of property lists discriminates against members of Black and other racial minority communities, as does the practice of using voters'

lists from some areas more than others. Also because the crown and defence attorneys can reject some potential jurors without explanation, it is possible that the racial and cultural composition of many juries do not reflect the community at large. Eligibility criteria and the selection process make it unlikely that an accused will be tried by a jury of his or her peers.

Questions:

- Should juries be required to reflect the racial and cultural composition of the community as a whole? By law, should they include one or more members who share the accused's racial or cultural background?
- Should residence rather than citizenship determine eligibility for jury duty?
- Should translation services be provided to jurors whose first language is not English or French?
- Should jurors be questioned about possible racial bias during the selection process?

d) Sentencing

If, at the end of a trial, the accused is found guilty, he or she is sentenced by the judge. While the crown may recommend a particular sentence, the judge is free to apply sentencing principles as he or she sees fit. Sentences for most crimes can include an absolute or conditional discharge, probation, a fine, or time in prison. Youth accused of a minor crime may be eligible for the Alternative Measures Program, which operates under the Young Offender's Act. This program gives first time young offenders who have been charged with minor offences a chance to receive a less serious penalty if they accept responsibility for the offence they are accused of committing. They may be permitted, for example, to pay compensation, apologize in writing for their offence, or perform community service instead of being found guilty.

Research from other jurisdictions, as well as emerging research in Ontario, indicate that both Black adults and youth are given harsher sentences for the same crimes, and that they receive stricter probation conditions and fewer alternatives to imprisonment than white accused. Disparity in sentencing may result from overt racism and stereotyping, or from systemic racism related to the influence of extra-legal factors. These factors, which include immigration status, length of time in the community, income, employment status, education, and housing, are believed to have a significant impact on the crown's recommendations and judges' exercise of judicial discretion.

Also at issue is the perception that the justice system tends to view certain crimes as "racial minority crimes," especially drug offences. Many strongly feel that the system over-emphasizes the gravity of these crimes and excessively penalizes the accused, a disproportionate number of whom are members of racial minority communities.

Questions:

- How can the fairness of sentences be monitored?
- Should there be clearer and more detailed guidelines for sentencing? Should judicial discretion be further limited?
- How can extra-legal and irrelevant socio-economic factors be eliminated from the exercise of judicial discretion? Should alternative factors be utilized?
- What are the alternatives to incarceration for individuals convicted of non-violent crimes? Should society consider imprisoning only those people guilty of serious violent crimes?
- Should the Alternative Measures Program be expanded to cover a wider range of offences? Should this program be extended to adults?
- Should sentencing principles for drug-related crimes be reviewed and possibly moderated?

Corrections

The correctional system is the last stage of the criminal justice process. If a judge sentences an adult, that person enters the community correctional system (usually probation and community service) or the institutional correctional system (jails, detention, or correctional centres).

Women and men are separated in the correctional system. In Ontario there is one prison for women. Other women are detained in sections of various detention centres.

A man or woman paroled after serving part of a sentence moves from the institutional system to the community system to serve the rest of his or her sentence in the community. Supervision is provided by probation and parole officers.

Young offenders can be sentenced by a judge to “secure custody” or to “open custody” facilities such as group homes.

a) Commission’s Interim Report

Corrections is the subject of the Commission’s *Interim Report*. This report focuses on three issues:

- racial hostility and intolerance in prison environments,
- racial segregation of prisoners within and among prisons, and
- racial inequality in the delivery of prisoner services.

This report is based on research and consultation with prisoners, defence counsel, members of advocacy groups, and correctional officials.

The Commission is also conducting research into other aspects of the correctional system, such as Probation, Community Service Order Programs, Temporary Absence Programs, and other early release programs from prison. Considerable attention has been paid to parole, and the discipline of prisoners, both of which are summarized next.

b) Parole

When a prisoner has served one-third of his or her sentence, he or she is eligible to apply for parole (an early release from prison). Officially, parole decisions are based on public security and the degree to which it is likely that criminal behaviour will be repeated. Other factors that may enter into parole officials' decisions are the individual's prison behaviour, as well as immigration status, past criminal activity, the nature of the crime committed, and public opinion. Until an individual completes his or her parole, he or she must comply with certain conditions. Failure to do so may result in being sent back to prison.

While there is no firm evidence that this is the case, it does appear easier for white prisoners to gain parole than for racial minority prisoners with comparable records. This is probably related to the difficulties faced by racial minority prisoners in gaining access to the opportunities they need to present a good prison record (such as Temporary Absence Programs).

For many minority prisoners (some of whom are not fluent in English or French), other contributing factors may be immigration status and poor preparation for parole hearings. These prisoners may not get the help they need to prepare adequate release plans, to consult with a lawyer, or to arrange for an interpreter.

Questions:

- What guidelines would ensure that all prisoners receive the same chance to establish a good prison record?
- How can the justice system reduce the systemic racism experienced by racial minority prisoners when preparing for hearings? How can they be given appropriate support while in prison?
- Should culturally-appropriate tools be developed for assessing prisoners in correctional facilities? What type of

training should prison and parole officials receive to increase their sensitivity to issues of race, culture, and immigration?

- Should there be stricter policies guiding a correctional official's exercise of discretion? If so, what should these policies be?
- How can the composition of parole boards better reflect the racial diversity of prisons and the community?

c) Disciplinary Issues in Correctional Institutions

Prisoners who break prison rules are punished and given misconduct reports. They may be placed in isolation or may lose privileges such as watching television or receiving visits from family. Because of their impact on a prisoner's record, misconduct reports can lead to difficulty in obtaining parole and result in longer stays in prison.

Some research suggests that Black and other racial minority prisoners are monitored more critically and disciplined more harshly and with less cause than white prisoners. Key factors appear to be attitudes on the part of correctional staff and a lack of clear guidelines for the exercise of discretion on disciplinary matters.

Questions:

- Should staff receive additional training on the use of discipline and the exercise of discretion, especially training that increases sensitivity to Black and other racial minority prisoners?
- Should existing guidelines and limits to discipline and discretion be changed?
- How can the staff composition at correctional facilities be made to reflect the minority communities within the prison and society as a whole?

Attitudes and Human Resource Issues in the Criminal Justice System

Police officers, defence lawyers, crown attorneys, judges, justices of the peace, court staff, parole officers, prison guards, and others in the criminal justice system take actions and make decisions that have an enormous impact on accused individuals. These actions and decisions are shaped by the backgrounds, knowledge, and attitudes of these officials.

Many people feel that criminal justice institutions no longer reflect the communities they serve. Members of Black and other racial minority groups hold a disproportionately small percentage of influential, decision-making positions. Overall, existing mechanisms for recruitment, selection, and promotion have not resulted in staff structures that reflect the society.

Tremendous pressure can be placed on racial minority employees to conform to organizational cultures that are often insensitive to issues of race and culture. Members of Black and other racial minority communities continue to distrust these organizations, even if they employ members from these communities. Notwithstanding employment equity programs, many organizations face major credibility challenges.

Because decision-makers often have little knowledge of members of Black and other racial minority groups, they may hold conscious or unconscious racist attitudes about them. Given the huge role played by discretion in the criminal justice system, these attitudes often result in harsher treatment of members of Black and other racial minority groups. Training programs and mechanisms for dealing with racist attitudes in the criminal justice system are often weak and inadequate.

Questions:

- What can be done to increase the proportion of Black and other racial minority decision-makers in the criminal justice system? What recruitment strategies would be most effective? How can selection processes be designed that are unbiased and sensitive to cultural differences?
- What are the most effective ways to change racist stereotypes and attitudes? Are some training programs truly effective in changing people's attitudes?
- How should a court official's racist behaviour (conscious or unconscious) be addressed? When is disciplinary action, rather than education, called for?
- How can senior management take a stronger lead in promoting non-racist values and a non-racist corporate culture?

Public Policy Process

The Commission is examining public policy processes that cut across all facets of the criminal justice system. Key areas of review include:

- the participation of Black and other racial minorities in the policy-making processes of the criminal justice system,
- the collection and use of race statistics, and
- the role of media in shaping public perceptions.

a) The Participation of Black and Other Racial Minority Individuals and Groups in the Policy-making Processes of the Criminal Justice System

There are many stages in the policy-making process. They include: definition of issues, analysis of problems and opportunities, generation and evaluation of options, development of recommendations, and implementation, monitoring, and evaluation. Various stakeholders and internal government groups may have input and influence at each stage.

Traditionally, Black and other racial minority groups have not been consulted in the policy-making process in a meaningful way, even on reforms that affect them. In particular, racial minority women and youth have had little involvement in these processes.

The Commission is exploring ways to encourage participation by these groups. These include the promotion of sensitivity and outreach on the part of policy- and decision-makers, the involvement of community organizations at the earliest possible stages in policy development, and the provision of specialized support and funding to groups for which effective participation may be restricted by language or cultural barriers.

Questions:

- What are the most effective ways to support participation by Black and other racial minority groups in all phases of criminal justice policy development? How can these groups become most involved in agency and ministry strategic planning and priority setting?
- What actions can be taken to strengthen the participation of Black and other racial minority women and youth in the policy-making process?
- What are the best ways to ensure that the diversity of Black and other racial minority communities is adequately represented by spokespersons and designated representatives?
- How can multi-stakeholder forums encourage greater communication and trust among all stakeholders?
- How can the consideration of systemic racism and anti-racism strategies be made an integral part of the development and evaluation of all justice system policies?
- What types of government structures can facilitate ongoing policy and program monitoring and evaluation?

b) The Collection and Use of Race Statistics

Virtually every part of the criminal justice system maintains basic statistics on its activities. Some of these contain detailed breakdowns of data, including gender and age.

Generally, statistics on race and cultural background are not formally or uniformly maintained, and their collection is a source of heated debate. A major benefit of these statistics is their role in pinpointing discrimination in the criminal justice system. Accurate statistics can also counter stereotypical perceptions of racial communities, and can help develop and implement racially and culturally sensitive programs and services. However, there are strong concerns that race statistics may be manipulated to reinforce false and damaging

perceptions and stereotypes. Therefore, how such information is collected, who interprets it, and how it is used must be addressed.

Questions:

- Are there areas in which race statistics might help government or Black and other racial minority communities to combat systemic racism?
- How can race statistics be collected, interpreted, and used responsibly?
- What safeguards can prevent the abuse of race statistics?

c) The Role of the Media in Shaping Public Perceptions

The media play a major role in influencing policy makers and the public. Media coverage shapes attitudes and knowledge, focuses attention on selected events and problems, and contributes to the setting of political and policy priorities.

There is widespread concern that the media portray Black and other racial minorities negatively. In particular, there is concern that the media perpetuate negative stereotypes of racial minorities, disproportionately associating them with crime.

Questions:

- Who and what can improve the fairness of media coverage of racial minorities in the criminal justice system?
- What role should press councils and media watchdogs play? Should there be a watchdog on racism in the media?
- How can the media be encouraged to play a more active public education role on issues related to racism in the criminal justice system?

Commission's Terms of Reference

Summary

The Commission has the mandate to examine and make recommendations by March 1994, on the following major topics:

- how the exercise of discretion by decision-makers in the criminal justice system affects racial minorities,
- the treatment of racial minorities in adult and youth correctional facilities,
- alternative forms of community policing,
- how to create policies and procedures to deal with allegations of racism brought against officials in the criminal justice system,
- how to prevent systemic racism through the selection, education, training and promotion of decision-makers in the criminal justice system,
- how to prevent systemic racism in the policies and practices of government ministries and agencies with criminal justice responsibilities,
- how to ensure that racial minorities effectively participate in justice system reforms,
- how to ensure that racial minorities have access to legal services, including criminal legal aid, and
- the need for future studies into racism inherent in the law.

Research Projects

- Annotated literature review.
- Archival review of historical records related to race and criminal law.
- Analysis of systemic racism.
- Public attitudes toward criminal justice-race issues.
- The role of media in public understanding of crime and race.
- Issues involved in the collection of crime statistics linked to racial origin.
- Analysis of crown files of completed cases of shootings of Black people by police personnel.
- Schools, youth and the police: Police involvement in school discipline issues.
- Use of discretion by police in stopping and questioning Black and other racial minority youth.
- Alternative Measures for young offenders: Issues of access for Black and other racial minority youth.
- Community policing: Alternative strategies of policing which include Black and other racial minority communities.
- Survey of individuals detained, charged and sentenced in the criminal justice system.
- Integrated statistical analysis of discretionary decision-making in court processing of criminal cases.
- Delivery of legal aid services to racial minority clients: Adequacy and appropriateness.
- Legal aid workshop: The experience of racial minority clients using legal aid services.
- Interpretation services in the criminal justice system: The availability of services at different stages of the criminal justice process.
- Critical analysis of substantive law, legal culture, judicial decision-making and criminal justice system inequities.

- Judicial attitudes: Judges and judicial discretion in criminal processing of Black and other racial minority accused.
- Crown discretion: Assessment of the exercise of crown discretion on Black and other racial minority offenders.
- Juries: Representativeness and understanding of race issues.
- Sentencing: Disparity in sentences.
- Bail: Assessment of who gets bail and under what conditions.
- Discipline in prisons: The use of misconduct and disciplinary controls in correctional facilities.
- Parole decisions and outcomes.
- Working for justice: Employment equity review of justice ministries' personnel.
- Participation by racial minority community groups in criminal justice policy development: Analysis of government initiatives and views from community groups.
- Alternatives to current criminal justice system models.

Commission's Consultations

Dates	Activities	Participants	City
Oct. 2, 1992	Consultation	Senior Correctional Officers	Toronto
Oct. 8, 1992	Meeting	Correctional Services Official	Toronto
Oct. 9, 1992	Consultation	Chief Legal Counsel to Correctional Services	Toronto
Oct. 9, 1992	Consultation	Toronto Bail Program Officials	Toronto
Oct. 15, 1992	Meeting	National Black Police Association, Washington, D.C.	Toronto
Oct. 19, 1992	Consultation	Senior Advisor, Research & Statistics, Solicitor General	Ottawa
Oct. 21, 1992	Consultation	Scarborough Probation Officers	Toronto
Oct. 28, 1992	Consultation	Scarborough Probation Officers	Toronto
Oct. 29, 1992	Consultation	Offender Programming, Correctional Services; Policy & Corporate Planning Secretariat, Correctional Services; Children's Services Branch, Community and Social Services	Toronto
Oct. 30, 1992	Meeting	Justice Review Project-Director	Toronto
Oct. 30, 1992	Consultation	Correctional Official	Toronto
Nov. 2, 1992	Meeting	Ontario Parole Board Member	Toronto
Nov. 22, 1992	Consultation	Black Inmates & Friends Assembly (BIFA) Group, 12 Prisoners Warkworth Institution	Kingston
Nov. 23, 1992	Meeting	Kingston Penitentiary	Kingston
Nov. 23, 1992	Consultation	BIFA IndoPersian Group 12 Prisoners Collins Bay Institution	Kingston
Nov. 23, 1992	Consultation	BIFA Group, 10 Prisoners Joyceville Institution	Kingston
Nov. 24, 1992	Consultation	Asian Group, 8 Prisoners Collins Bay Institution	Kingston
Nov. 24, 1992	Consultation	Multicultural Group, 30 Prisoners Pittsburgh Institution	Kingston
Dec. 1, 1992	Meeting	Association of Correctional Managers	Toronto
Dec. 1, 1992	Meeting	Ombudsman & Staff	Toronto
Dec. 3, 1992	AGM	Canadian Bar Association	Toronto
Dec. 3, 1992	Meeting	Minister of Community and Social Services staff & representatives of Ontario Public Service Employees Union (OPSEU)	Toronto
Dec. 9, 1992	AGM	Coalition of Visible Minority Women	Toronto
Dec. 10, 1992	Meeting	Chair & Vice-Chair, Ontario Board of Parole	Toronto
Jan. 5, 1993	Meeting	Jail Superintendent (Federal & Provincial Corrections)	Toronto
Jan. 15-17, 1993	Conference	BIFA & Metro Police "Working Together"	Toronto
Jan. 18, 1993	Public Event	Martin's Day at Harbourfront	Toronto

Jan. 19, 1993	Meeting	Deputy Solicitor General & Senior Staff	Toronto
Jan. 25, 1993	Workshop	Researchers met with Academics, Lawyers & Community Members	Toronto
Jan. 28, 1993	Meeting	Judge, Judicial Legal Education	Toronto
Jan. 31, 1993	Meeting	Delos Davis Luncheon for Judge Micheline Rawlins	Toronto
Feb. 2, 1993	Meeting	Temporary Absence Board Mimico Correctional Centre	Toronto
Feb. 3, 1993	Meeting	Youthlink, Counsellor	Toronto
Feb. 3, 1993	Meeting	Deputy Minister, Correctional Services	Toronto
Feb. 4, 1993	Meeting	Equity Officer, Attorney General	Toronto
Feb. 11, 1993	Meeting	Operation Springboard	Toronto
Feb. 12, 1993	Meeting	Metro East Detention Centre	Toronto
Feb. 17, 1993	Meeting	Youth Community Services North York Public Libraries	North York
Feb. 18, 1993	Meeting	Black Coalition for AIDS Prevention	Toronto
Feb. 18, 1993	Meeting	Metro West Detention Centre, Vanier Centre for Women	Toronto
Feb. 23, 1993	Workshop	Criminal Justice Professionals	Toronto
Feb. 25-28, 1993	Conference	National Black Law Students Association	Halifax
Mar. 1, 1993	Conference	Police Association of Ontario	Toronto
Mar. 2, 1993	Meeting	Stephen Lewis	Toronto
Mar. 3, 1993	Meeting	Youth Link	Toronto
Mar. 4, 1993	Meeting	Prof. Michael Tonry Centre of Criminology	Toronto
Mar. 5, 1993	Meeting	Western Region, Ontario Board of Parole	Guelph
Mar. 9, 1993	Meeting	Child & Family Services Advocate Manager	Toronto
Mar. 11, 1993	Meeting	Central Region, Ontario Board of Parole	Toronto
Mar. 16, 1993	Meeting	Elizabeth Fry Society, Executive Director	Toronto
Mar. 17, 1993	Meeting	Syl Apps, Senior Staff	Toronto
Mar. 17, 1993	Meeting	Elizabeth Fry Society, Residents	Toronto
Mar. 18, 1993	Meeting	Regional Directors & Managers of Correctional Institutions	Toronto
Mar. 19, 1993	Meeting	Sprucedale Youth Centre, Superintendent, Deputy Superintendent, Programming & Placement Officer	Toronto
Mar. 21, 1993	Public Event	International Day for the Elimination of Racial Discrimination "The Colour of Freedom"	Toronto
Mar. 22, 1993	Meeting	Urban Alliance on Race Relations Assistant Deputy Ministers Correctional Services	Toronto
Mar. 23, 1993	Meeting	Superintendents of Metro Correctional Institutions	Toronto
Mar. 23, 1993	Meeting	Employment Equity Program, Correctional Services	Toronto

Mar. 23, 1993	Meeting	Metro Police	Toronto
Mar. 23, 1993	Focus Group	Youth Exposed to the Criminal Justice System	Toronto
Mar. 24-28, 1993	Conference	The Role of the Judge in the New Canadian Reality	Victoria, B.C.
Mar. 26, 1993	Conference	The Justice System: Is it Serving or Failing Minorities? Urban Alliance on Race Relations	Toronto
Mar. 30, 1993	Meeting	Advocates' Society	Toronto
Mar. 31, 1993	Meeting	Students at Rosedale Heights	Toronto
Mar. 31, 1993	Meeting	Correctional Services Deputy Minister	Toronto
Apr. 1, 1993	Focus Group	Community Groups Involved with Adult Corrections	Toronto
Apr. 1, 1993	Focus Group	Organizations Working with Youth Exposed to the Criminal Justice System	Toronto
Apr. 6, 1993	Focus Group	Classification Officers	Toronto
Apr. 7, 1993	Meeting	Guelph Correctional Centre Prisoners, Superintendent, Deputy, & Senior Staff	Guelph
Apr. 7, 1993	Meeting	Maplehurst Correctional Centre Prisoners, Superintendent, Deputy & Senior Staff	Milton
Apr. 8, 1993	Meeting	Corrections Staff Training & Recruitment Unit	Toronto
Apr. 8, 1993	Meeting	Ontario Correctional Institute Prisoners, Superintendent, Deputy & Senior Staff	Brampton
Apr. 13, 1993	Meeting	Elizabeth Fry Society Senior Staff	Hamilton
Apr. 14, 1993	Meeting	Millbrook Correctional Centre Prisoners, Superintendent, Deputy & Senior Staff	Millbrook
Apr. 15, 1993	Focus Group	Correctional Officers	Toronto
Apr. 16, 1993	Focus Group	Correctional Officers	Toronto
Apr. 20, 1993	Meeting	Black Inmates & Friends Assembly Executive Director	Toronto
Apr. 20, 1993	Meeting	Ontario Anti-Racism Secretariat Youth Community Placement Program	Toronto
Apr. 20, 1993	Consultation	Aboriginal Consultation, Interim Steering Committee	Toronto
Apr. 23, 1993	Conference	Racial Minority Youth	Ottawa
May 4, 1993	Meeting	OPSEU - Grievance Officer	Toronto
May 20, 1993	Focus Group	Community Policing Community Activists & Representatives	Toronto
May 21, 1993	Meeting	Chief Coroner	Toronto
May 26, 1993	Focus Group	Community Policing Racial Minority Police Officers	Toronto
May 27, 1993	Conference	Provincial Division Judges	Ottawa
May 27, 1993	Conference	Crown Attorneys	Muskoka
June 1, 1993	Meeting	Criminal Lawyers Collective of the Ontario Law Union	Toronto

June 4, 1993	Reception	National Black Police Association	Toronto
June 7-8, 1993	Conference	Community Policing Black & Other Racial Minority Communities, Activist, Black Police Officers, Senior Police Management & Police Service Board Members	Toronto
June 8, 1993	Equity Forum	Toronto Board of Education & Public	Toronto
June 9, 1993	Information	Metro Youth Council	Scarborough
June 14, 1993	Forum	How is the Educational System Failing Us? Black Professionals - Reaching Out	Toronto
June 15, 1993	Focus Group	Youth & Pre-Trial Encounters Defence Counsel	Toronto
June 17, 1993	Meeting	Association of Black Law Enforcers	Toronto
June 17, 1993	Meeting	Organizations of Parents of Black Children	Toronto
June 20, 1993	Street Theatre Festival	Summer '93 Focus Black Creek Focus Community members	Toronto
June 21, 1993	Meeting	Justice Dubin	Toronto
June 21, 1993	Workshop	Black Youth Achievements Law Awareness	Toronto
June 23, 1993	Meeting	Black Clergy	Toronto
June 23, 1993	Discussion	Crown Attorney	Brampton
June 25, 1993	Meeting	Senior Judges	Lakefield
June 25-26, 1993	Meeting	Canadian Alliance of Black Educators	Toronto
July 1, 1993	Street Theatre Festival	Black Creek Focus Summer '93 Community Members	Toronto
July 7, 1993	Meeting	OPSEU	Toronto
July 8, 1993	Meeting	Caribbean Association of Peel	Mississauga
July 9, 1993	Meeting	Canadian Centre for Justice Statistics	Toronto
July 11, 1993	Discussion	Youth Unity Symposium	North York
July 16, 1993	Workshop	Lawrence Heights: Black Youth & Coping	North York
July 20, 1993	Consultation	Aboriginal Consultation	Toronto
July 22, 1993	Meeting	Youth & Probation	Scarborough
July 22, 1993	Focus Group	Alternative Measures & Bail	Scarborough
July 28, 1993	Focus Group	Duty Counsel	Toronto
July 29, 1993	Meeting	Street Outreach Services	Toronto
July 30, 1993	Forum	Bangladesh Awami Society	Toronto
Aug. 4, 1993	Discussion	Criminal Lawyer	Toronto
Aug. 5, 1993	Focus Group	Female Racial Minority Police Officers	Toronto
Aug. 5, 1993	Focus Group	Over-policing of Youth in Public Spaces-African Cultural Organization	Toronto
Aug. 6, 1993	Focus Group	Over-policing of Youth in Public Spaces-South Asian Centre	Toronto
Aug. 9, 1993	Focus Group	Over-policing of Youth in Public Spaces-Woodgreen Community Centre	Toronto
Aug. 10, 1993	Public Meeting	Justice for Graciela Montans: Violence Against Women-Systemic Racism in the Criminal Justice System	Toronto

Aug. 10, 1993	Focus Group	Over-policing of Youth in Public Spaces-Central Neighbourhood House, Youth Workers	Toronto
Aug. 11, 1993	Focus Group	Over-policing of Youth in Public Spaces-Central Neighbourhood House, Front Line Staff	Toronto
Aug. 11, 1993	Workshop	BIFA: Youth & the Criminal Justice System.	Toronto
Aug. 11, 1993	Meeting	Over-policing of Youth in Public Spaces-Metro Police Headquarters, Police Officers	Toronto
Aug. 12, 1993	Focus Group	Over-policing of Youth in Public Spaces-Central Neighbourhood House, Front Line Staff	Toronto
Aug. 12, 1993	Focus Group	Over-policing of Youth in Public Spaces-Youth	North York
Aug. 13, 1993	Focus Group	Over-policing of Youth in Public Spaces-Alert Program	Brampton
Aug. 14, 1993	Meeting	Over-policing of Youth in Public Spaces-Change of Future/Youth Fresh Arts	Toronto
Aug. 16, 1993	Performance & Discussion		Toronto
Aug. 18, 1993	Focus Group	Over-policing of Youth in Public Spaces-Youth	North York
Aug. 19, 1993	Performance & Discussion	Caribana: JOY	Toronto
Aug. 19, 1993	Focus Group	Central High School of Commerce Racial Minority Lawyers	Toronto
Aug. 19, 1993	Meeting	Over-policing of Youth in Public Spaces-Marcus Garvey Home	Toronto
Aug. 20, 1993	Meeting	Over-policing of Youth in Public Spaces-JOY Change of Future	Toronto
Aug. 24, 1993	Focus Group	Law Enforcement Personnel & Youth	Toronto
Aug. 24, 1993	Meeting	Over-policing of Youth in Public Spaces-Scarborough Civic Centre	Scarborough
Aug. 25, 1993	Meeting	Law Society Representatives	Toronto
Aug. 25, 1993	Meeting	Over-policing of Youth in Public Spaces-Lesbians/Gays of Colour	Toronto
Aug. 26, 1993	Meeting	Over-policing of Youth in Public Spaces-Filipino Youth	Scarborough
Aug. 27, 1993	Meeting	Over-policing of Youth in Public Spaces-Parents of Black Youth	Scarborough
Aug. 28, 1993	Youth Forum	Harbourfront Community Centre	Toronto
Sept. 9, 1993	Focus Group	Interpreter Services: Social Service Providers	Toronto
Sept. 16, 1993	Focus Group	Interpretation Services: Service Providers in the Criminal Justice System	Toronto
Sept. 17, 1993	Discussion	Feminist Working Group on the Criminal Justice System Attorney General & Ontario Women's Directorate	Toronto
Sept. 21, 1993	Focus Group	Court Interpreters	Toronto
Sept. 24, 1993	Meeting	Roundtable Discussion on Juries	Toronto
Sept. 28, 1993	Workshop	Race Statistics-Community Members, Academics, Government Officials, Police Personnel	Toronto

